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IN THE
Supreme Court of the United States

OCTOBER TERM, 1975

NOS. 75-1858

75-1609

~~75-1501~~

75-1521

NATIONAL LABOR RELATIONS BOARD,
THE CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA, and
THE DOW CHEMICAL COMPANY,
Petitioners,

v.

LOCAL 14055, UNITED STEELWORKERS
OF AMERICA, AFL-CIO,
Respondent.

On Petitions For A Writ Of Certiorari To The
United States Court of Appeals For
The District of Columbia Circuit

SUGGESTIONS OF MOOTNESS

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SUGGESTIONS OF MOOTNESS

The undersigned counsel represented respondent, Local 14055, United Steelworkers of America, AFL-CIO, in all the proceedings below. Inasmuch as that labor organization no longer exists, the only response we can properly make to the three petitions for certiorari filed herein is to bring the facts to the Court's attention and to explain why we believe that the nonexistence of the respondent moots this controversy.

I. The Facts Relating to the Dissolution of Local 14055.

As established in decisions of the National Labor Relations Board and the courts and by the affidavit and supporting documents¹ included in the appendix to these

1. The Appendix to these Suggestions of Mootness will be cited as "App." Citations to "Pet. App." refer to the appendix to the petition for writ of certiorari in No. 75-1521 filed by the Dow Chemical Company.

Suggestions of Mootness.

Suggestions, the facts relating to the background and dissolution of Local 14055, United Steelworkers of America, AFL-CIO (herein "respondent" or "Local 14055") are as follows.

During all of its existence, Local 14055 or its predecessor² in the International Union of District 50, Allied and Technical Workers of the United States and Canada (Ind.) represented the production and maintenance employees of the Dow Chemical Company, Bay Refining Division refinery (herein "Dow" or "the Company"), located in Bay City, Michigan (App. 2a). Its membership consisted *entirely* of these Dow employees, and the employees of no other employer or facility either belonged to or were represented by Local 14055 (*id.*).

The conduct at issue in the current case stems from a labor dispute between respondent and Dow which commenced in February of 1972 when the employees, then represented by respondent's District 50 predecessor, went on strike (App. 2a-3a). The strike turned out to be unsuccessful. Dow continued operations during the strike, hiring replacements to perform the work of strikers (App. 3a). As of April 13, 1973, there was a full complement of employees on hand at the plant.³

2. In 1972, District 50 affiliated with the United Steelworkers of America. That affiliation was the subject of some litigation and was eventually accomplished under the supervision of the Secretary of Labor. See, *Cefalo v. Moffett*, 333 F. Supp. 1283 (D.D.C. 1971), modified on appeal, 449 F.2d 1193 (D.C. Cir. 1971), on remand, F. Supp., 67 CCH Labor Cases ¶ 12,468 (D.D.C. 1972).

3. The facts relating to Dow's withdrawal of recognition are as found by the NLRB in *The Dow Chemical Company*, 216 NLRB No. 16 (1975).

Suggestions of Mootness.

Included in their number were eighty-two striker replacements and sixty-one employees who had abandoned the strike and returned to work. At that time, only sixty-four employees⁴ remained on strike, and they had been on strike for more than a year and had, therefore, lost the right to vote in any NLRB election in this bargaining unit (App. 3a-4a). Approximately seventy percent of the employees at work in early April of 1973 signed a petition seeking disaffiliation with the Union. Based on these facts, the Company withdrew recognition on April 15, 1973. Since that date, the employees have been unrepresented.

The last collective bargaining session between the parties occurred on January 12, 1973 after which the Union requested no further meetings. On September 12, 1973, all strikers offered to return to work. There has been no picketing of any kind since mid-September of 1974 (App. 3a).

The Company's withdrawal of recognition as well as certain other conduct was challenged in unfair labor practice proceedings. Ultimately, however, the Board ruled that Dow did not commit a violation of the National Labor Relations Act when it terminated the bargaining relationship. *The Dow Chemical Company*, 216 NLRB No. 16 (1975).

The effect of this NLRB decision was to confirm the loss of the Local's right to represent employees of the Dow refinery. Moreover, it was then apparent that there was little if any support for Local 14055 among the employees in the bargaining unit which meant that a representation election could not be won (App. 3a-4a).

4. This number was thereafter reduced by additional defections (App. 3a).

Suggestions of Mootness.

These facts made it clear that the cause was lost and that there was no chance to regain the right to bargain for these employees. Indeed, in the staff representative's view, further efforts were both futile and contrary to the best interest of the Union's members. Accordingly, he recommended that Local 14055 be placed under administratorship as is standard procedure in the Steelworkers⁵ when a local union is ultimately headed for extinction (*id.*). As of June, 1975 the only open question was whether or not review would be sought of the Board's decision absolving Dow (*id.*).

Pursuant to the recommendations of the staff representative and the International Director for the district encompassing Bay City, Michigan, the International, exercising its constitutional powers, imposed an administratorship on Local 14055 (App. 4a-9a). Thereafter, hearings on the administratorship were held by an International Commission. The Commission, after reviewing briefly the long history of the strike, including the fact that more than one-half of the Local's members had abandoned the effort and that the Steelworkers had lost all representation rights, concluded that the Local should remain under administration in order to safeguard the Union's assets and because of the pendency of litigation (App. 9a, 16a-18a).⁶ In October of 1975, the International Executive Board voted to adopt the Commission's report (App. 10a, 21a).

5. The United Steelworkers of America, AFL-CIO is referred to herein as "Steelworkers" or "International."

6. The only litigation discussed in the course of the hearings on the administratorship involved the NLRB decision in the refusal to bargain case against Dow (App. 9a).

Suggestions of Mootness.

After the imposition of an administratorship, respondent conducted no further meetings and engaged in no collective bargaining, organizing or other activities. Except for steps taken to wind up its affairs, the only function Local 14055 served in the fall and winter of 1975 was to collect and turn over premiums so that some former employees of Dow could obtain group insurance coverage from Blue Cross-Blue Shield (App. 10a).

In February or March of 1976, however, the group policy was cancelled by the insurer on the ground that the group had become too small. In fact, it had dwindled to only three members (*id.*). There was now no reason for the Local to continue in existence. Accordingly, the administrator, in early May of 1976, recommended to the District Director that respondent's charter be lifted (*id.*). His recommendation was based on the facts that (a) the Local had lost the bargaining rights for the only plant in its jurisdiction and it had been decided not to seek review of the NLRB's ruling in the matter; (b) there was no chance of regaining such rights; (c) the preliminary steps necessary for dissolution had been taken, including the payment of all bills and (d) there no longer was a need to keep the Local in existence for group insurance purposes (App. 11a).

For substantially the same reasons, the Director in turn made this same recommendation to the International Executive Board which voted to cancel the Local in early May of 1976 (App. 11a, 22a-24a). Immediately thereafter, the administrator completed the formalities attendant to dissolution of the Local. The only assets in the Local's treasury, unused strike funds, were transferred back to the International Strike and Defense Fund

whence they came and Local 14055, the sole respondent in this case, ceased to exist (App. 11a-12a).

II. Dissolution of Local 14055 Moots This Controversy.

There was never more than one respondent in this case, Local 14055. The Board's order, enforcement of which was denied in the court below, would require that Local 14055 cease and desist from threatening and coercing certain named employers where the object thereof is to cause such employers to cease doing business with Dow. In addition, the Local is required to post a prescribed notice at its business office and meeting halls and furnish the Board's Regional Director with proof of compliance (Pet. App. 38a-39a). After the court of appeals denied enforcement of the Board's order, Local 14055 went out of existence. That post-decision change in circumstances, we respectfully suggest, renders this case moot. The Local has passed from the scene and therefore cannot defend its position here; moreover, even if this Court were to grant certiorari, reverse the court below and decree enforcement of the Board's order, it would be doing a vain act for the non-existence of respondent makes the cease and desist order meaningless and the posting requirement impossible to perform.

Almost thirty years ago, this Court laid down the following general rule to guide reviewing courts in dealing with NLRB cases where, following the Board's decision, circumstances arise which cast doubt on the advisability of enforcing the Board's order:

"When circumstances do arise after the Board's order has been issued which may affect the propriety of enforcement of the order, the reviewing court has discretion to decide the matter itself or to remand it to the Board for further consideration.

For example, where the order obviously has become moot, the court can deny enforcement without further ado; but where the matter is one involving complicated or disputed facts or questions of statutory policy, a remand to the Board is ordinarily in order." (Emphasis added.) *N.L.R.B. v. Jones & Laughlin Steel Corp.*, 331 U.S. 416, 428, 67 S.Ct. 1274, 1281 (1947).

Typically, mootness becomes an issue in cases involving employer respondents when, following the Board's decision and while review is still pending in the court of appeals, the employer goes out of business, or permanently closes the plant involved in the proceeding. In these circumstances, and provided, of course, that a functioning employer is necessary for compliance, i.e., the remedy includes a cease and desist order, a reinstatement order or a bargaining order, the courts generally dismiss the petition as moot if presented with evidence establishing cessation of the business. *N.L.R.B. v. Armitage Sand and Gravel*, 495 F.2d 759 (6th Cir. 1974) (*per curiam*); *N.L.R.B. v. McMahon, d.b.a. McMahon's Sales Co.*, 428 F.2d 1213 (9th Cir. 1970) (*per curiam*). If not, they remand the case to the Board to determine whether the plant has been in fact closed or sold. *N.L.R.B. v. Gilmore Down River Chevrolet, Inc.*, 65 LRRM 3151, 56 CCH Labor Cases ¶ 12,139 (6th Cir. 1967) (*per curiam*); *N.L.R.B. v. Schnell Tool & Die Corporation*, 359 F.2d 39 (6th Cir. 1966); *N.L.R.B. v. Grace Co.*, 184 F.2d 126 (8th Cir. 1950); *N.L.R.B. v. Reynolds Corp.*, 155 F.2d 679 (5th Cir. 1946) (*per curiam*), 168 F.2d 877 (5th Cir. 1948) (*per curiam*). In none of these cases, however, did the court put the matter off until the compliance stage or decide the merits, as is suggested by the NLRB in its current petition (page 14). That procedure, as one court so aptly observed, "puts

the proverbial cart before the horse." *N.L.R.B. v. Schnell Tool & Die Corporation*, *supra*, 359 F.2d at 44. What the Board in effect seeks is a decree of enforcement before it has been shown that there is a functioning local union against which such a decree could in fact be enforced. (*id.*).

The facts here make out an even stronger case for mootness than those cited above. To begin with, the changed circumstances here arose not during the pendency of proceedings in the court of appeals but after that court had denied enforcement of the Board's order.⁷ Second, in marked contrast to the respondent employers in the above cases, each of which sold or shut down all or part of its facilities but continued existence in some form, Local 14055 in this case passed from the scene altogether. Third, the Board orders in each of the above cases contained a "successors and assigns" provision notably lacking from the order issued by the Board in the present case.

The Board's reliance on *Southport Petroleum Co. v. N.L.R.B.*, 315 U.S. 100, 62 S.Ct. 452 (1942), *reh'g denied*, 315 U.S. 827, 62 S.Ct. 637 (1942) is misplaced. There, the Board's order contained a back pay award which, though it sold the business, could have been carried out by the respondent corporation, an ongoing entity; moreover, it appeared that the purchaser of the business may not have been the distinct entity it was claimed to be and thus might have been obligated to carry out the prospective features of the award. In addition, the Board's order ran not only to the respondent but to its successors and assigns.

7. The essential facts were called to the attention of the Solicitor General months before the Board filed its petition for certiorari. See Petition at 14 and Appendix A thereto.

None of these facts is present in this case. The Board's remedy does not require back pay but calls for a cease and desist order.⁸ Enforcement of such an order against "Local 14055" would be meaningless. Enforcement against the International would be a violation of due process inasmuch as the International was neither a party respondent to the complaint nor named in the charges filed by Dow and the Chamber of Commerce. The Board can hardly require the International to cease and desist from conduct it was never charged with. Nor, finally, can the International be held responsible for the conduct of a constituent local merely because it is the parent organization. *United Bro. of Carpenters, etc. v. N.L.R.B.*, 286 F.2d 533, 538-539 (D.C. Cir. 1960); *N.L.R.B. v. Local 1016, United Bro. of Carpenters, etc.*, 273 F.2d 686, 688 (D.C. Cir. 1960); *Meat Cutters and Butcher Workmen, Local P-575 (Iowa Beef Packers, Inc.)*, 188 NLRB No. 5 (1971). Indeed, the Board, in its petition for certiorari, does not assert, as it could not, that the International is the "successor" to the Local for enforcement purposes. Instead, the Board merely questions, inexplicably, the *de facto* existence of the Local.

8. The distinction between currently enforceable orders such as back pay awards, on the one hand, and cease and desist or bargaining orders, on the other, has been noted by several courts. *N.L.R.B. v. Kostilnik*, 405 F.2d 733 (3d Cir. 1969) (*per curiam*); *N.L.R.B. v. Grace Co., supra*; *N.L.R.B. v. Dixon*, 184 F.2d 521 (8th Cir. 1950); *N.L.R.B. v. Reynolds Corp., supra*. Similarly, the fact that there were grave questions involving successor corporations is what persuaded the court to grant enforcement of the Board's order in *Cap Santa Vue, Inc. v. N.L.R.B.*, 137 U.S. App. D.C. 395, 424 F.2d 883 (D.C. Cir. 1970).

Suggestions of Mootness.

Sometime ago the Fifth Circuit cautioned that "it [is] futile to try a hotly contested case for the purpose of making an inoperative decree." *N.L.R.B. v. Reynolds Corp.*, *supra*, 155 F.2d at 682. It would be difficult to write a more apt description of the present case.

In closing, we note our agreement with the Board's observation that the question posed here is an important one.⁹ (It was also important in 1964 when this Court decided the same question in the *Tree Fruits* case).¹⁰ But that is one more reason why the matter ought to be presented to this Court by live protagonists from both sides. If, as the Board states in its petition (page 13), there are a half dozen pending cases which raise the issue, there will be ample future opportunity for this Court to hear the issue, if it wishes to do so, in the context of a live controversy rather than a dead one.

III. Conclusion

For the reasons set forth above, the petitions for certiorari filed in this case should be dismissed as moot.

Respectfully submitted,

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9. Because of its importance to all trade unions, it is likely that some of them will seek to participate as *amicus curiae* should the Court disagree with us and grant certiorari in this case.

10. *N.L.R.B. v. Fruit and Vegetable Packers & Warehousemen, Local 760 [Tree Fruits Labor Relations Committee, Inc.]*, 377 U.S. 58, 84 S.Ct. 1063 (1964).

APPENDIX

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COMMONWEALTH OF PENNSYLVANIA }
County of Allegheny } ss.:

Affidavit of George B. Watts

GEORGE B. WATTS, being first duly sworn, deposes and says as follows:

1. My name is George B. Watts and I am currently employed as a staff representative by the United Steelworkers of America, AFL-CIO. I have held this position since March of 1966. My current business address is 1104 South Madison, Bay City, Michigan 48706. I have worked out of the Union's Bay City, Michigan office since August of 1967.

2. As a Steelworker staff representative, my duties included the servicing of as many as thirteen local

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unions in the Bay City-Midland, Michigan area. In August of 1972, the International Union of District 50, Allied and Technical Workers of the United States and Canada (Ind.) merged with the United Steelworkers of America, AFL-CIO. With the merger, I began servicing those District 50 local unions which represented employees of the several Dow Chemical Company plants and one Dow-Corning Corporation plant, all in the Bay City-Midland, Michigan area. Local 14055 was one such local union.

3. Unless otherwise indicated, I have direct personal knowledge of the matters set forth in this Affidavit. As to those matters of which I do not have direct personal knowledge, my testimony is based upon (a) facts I learned as administrator of Local 14055 by examining the Local's books and records and (b) my knowledge of the procedures of the United Steelworkers of America, AFL-CIO which I gained over the years as a staff representative.

4. My examination of the books and records of Local 14055 revealed that in the Local's history of slightly more than twenty years, its membership has been confined always to the production and maintenance employees of Dow's Bay City refining facility, and it has never represented, for purposes of collective bargaining, the employees of any other employer.

5. In February of 1972, following expiration of the most recent collective bargaining agreement, Local 14055, International Union of District 50, Allied and Technical Workers of the United States and Canada (Ind.) commenced a strike against the Dow Chemical Company's Bay City Refinery Division over the terms of a new agreement. In August of 1972, Local 14055 became

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affiliated with the United Steelworkers of America through the merger of the parent labor organizations. The Local continued the strike following the merger.

6. The strike proved unsuccessful. Thus, the Company continued operations throughout the strike, hiring replacements for the strikers. The strikers themselves began abandoning the strike in October of 1972. By April of 1973, a majority had given up and returned to work. Thereafter, strikers continued to filter back to work for Dow, others retired, and still others moved away from the Bay City area. By January of 1975, the strike had been abandoned by all but a few individuals numbering no more than six.

7. On September 12, 1973, Local 14055 sent a telegram to the Company which, in relevant part, read as follows:

"The United Steelworkers of America, AFL-CIO, Local 14055 hereby offers to return all striking employees involved in the work stoppage at the above facility to work immediately. This offer is being made on behalf of all striking employees and is unconditional."

8. As for picketing itself, by the winter of 1973, strike activity by Local 14055 had fallen off considerably. From then until August of 1974, it occurred only sporadically, less than once a week on the average. Picketing by Local 14055 ceased entirely in mid-September of 1974 and has never resumed.

9. In January of 1975, the National Labor Relations Board handed down its decision upholding Dow's withdrawal of recognition of the Union. *The Dow Chemical Company*, 216 NLRB No. 16. By then, Local

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14055 had no support among the refinery workers actually employed by Dow, and under the National Labor Relations Act, the strikers, having been out for more than a year, had no right to vote in any NLRB election. These facts convinced me that Local 14055 had lost the strike and had no chance to regain bargaining rights on behalf of Dow refinery employees. I also became convinced that further expenditures on behalf of this lost cause were inimical to the interests of the members.

10. In late May or early June of 1975, I telephoned Charles G. Younglove, Director of District 29, United Steelworkers of America, AFL-CIO ("International") the geographic subdivision of the International in which Local 14055 was located. I reviewed the facts set forth above with him and recommended that the Local be placed under administratorship. This is the usual course taken when it appears that a local is headed for extinction. It is done as a precautionary measure to safeguard the interests of the members and the assets of the local pending dissolution. At that time, the only "open" issue under consideration was whether or not to appeal the Board's decision in favor of Dow in 216 NLRB No. 16. These were the reasons I gave for recommending the imposition of an administratorship over Local 14055.

11. On June 2, 1975, pursuant to the provisions of Article IX, Section 1 of the International Constitution, Director Younglove sent a telegram to I. W. Abel, President of the International, requesting that an administrator be placed over Local Union 14055 and recommending me to serve as administrator "to protect the interests of the Local Union members and International Union, including pending lawsuits." Director

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Younglove also recommended termination of all expenditures on behalf of the strike. I was served with a copy of the telegram.

12. Over the course of the next few days, President Abel, acting pursuant to the provisions of Article IX, Section 1 of the International Constitution, polled the members of the International Executive Board on this request. The poll was conducted by letter, a sample copy of which is attached to this Affidavit as Exhibit A.

13. Article IX, Sections 1 and 2 of the International Constitution read as follows:

*"ARTICLE IX**Suspension or Revocation of Local Union Charters*

"Section 1. In the event the International President shall have reason to believe that any Local Union is failing to comply with any provision of the Constitution, or that action may be required for one of the purposes specified in the following paragraph, the International President may, unilaterally or at the request of officers or members of the Local Union, institute proceedings, with due notice of the basis therefor and of a hearing before any member or members of the International Executive Board or representative or representatives designated by the International President. The Local Union shall be afforded a full and fair hearing consistent with, to the extent applicable, the procedures for conducting hearings under Article XIII. Upon the basis of the hearing the International Executive Board is authorized to render a decision, dismissing the proceedings, suspending or revoking the charter of any

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such Local Union, or directing such other action as may be necessary to secure compliance with the Constitution. The International Executive Board may act at a meeting or by means of a mail or telegraphic poll.

"Included in the other action which the International Executive Board may direct are the removal, by it or by the Administrator provided for below, of all or any of the Local Union Officers, grievance or other committee members or stewards, and appointment of an Administrator over the affairs and property of any such Local Union for any of the following purposes: (a) correcting corruption or financial malpractice, (b) assuring the performance of collective bargaining agreements or other duties of a bargaining representative, (c) restoring democratic procedures, or (d) otherwise carrying out the legitimate objects of the International Union or such Local Union.

"If the decision of the International Executive Board on the report and recommendations of the hearing commission is rendered by means of a poll when it is not in session, the matter shall be considered again at the next meeting of the International Executive Board following request for such consideration by an aggrieved party provided such request is filed with the International Secretary-Treasurer within thirty (30) days after the decision is made known to the Local Union.

"Notwithstanding anything to the contrary herein, in case of emergency, where in the opinion of the International President the best interests of the International Union or Local Union require, the International President is empowered to sus-

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pend officers of, and establish an administratorship over, the affairs and property of a Local Union prior to notice and hearing. In such cases notice shall be given and a hearing as specified above shall be conducted within sixty (60) days following the emergency action.

"The Local Union shall be notified of the time and place of any meeting of the International Executive Board at which the Local Union's status will be considered. The parties shall have the right to appear before the International Executive Board at such meeting. The International Executive Board may affirm, reverse or modify the action of the International President and shall render its decision as soon as practicable following such hearing.

"The decision of the International Executive Board may be appealed to the next International Convention, provided that notice of the appeal is filed with the International Secretary-Treasurer within thirty (30) days after the decision is made known to the Local Union. Pending the appeal the decision of the International Executive Board shall remain in full force and effect. The International Convention may affirm, reverse or modify the decision of the International Executive Board.

"In the event that an Administrator is appointed for a Local Union, the Administrator shall take full charge and conduct all the affairs of the Local Union until the International Executive Board determines that the Local Union is capable of conducting its own affairs in conformance with the Constitution and policies of the International Union and by-laws of the Local Union. The Administra-

tor shall have the right to demand and receive in the name of the International Union, and the Local Union Officers shall have the obligation to turn over, the charter and all books, records, monies, assets and property of the Local Union, to be held in trust for the Local Union and to be used and expended only in the proper conduct of its affairs. The Administrator shall have the right to replace officers, grievance or other committee members or stewards removed by the International Executive Board or the Administrator, by appointing temporary officers, grievance or other committee members or stewards.

"All officers, grievance or other committee members or stewards, incumbent or temporary, shall function under the supervision, direction and control of the Administrator. The International President shall have the right, with or without cause, to remove or replace the Administrator at any time.

"It shall be the policy of the International Executive Board to terminate an administratorship as soon as it deems practicable under all the circumstances. When the International Executive Board determines to restore the autonomy of an administered Local Union, the Administrator shall, prior to such restoration, be responsible for conducting an election, in accordance with the applicable provisions of the Constitution and policies of the International Union and by-laws of the Local Union, to fill vacant offices and other elective positions vacated on account of removal or departure of the former elected incumbents.

"Sec. 2. In the event a mill or plant, which constitutes the sole jurisdiction of a Local Union, is abandoned, the International Secretary-Treasurer, with the consent of the International Executive Board, may revoke the charter of said Local Union."

14. A majority of the Executive Board voted to approve this request for appointment of an administrator. I was appointed by International President Abel by letter dated June 9, 1975. A true copy of this letter is attached to this Affidavit as Exhibit B. At approximately the same time, the officers of Local 14055 were notified of their removal. A sample copy of the notice is attached to this Affidavit as Exhibit C.

15. Also pursuant to Article IX, on June 19, 1975, a Commission was appointed by the International to conduct an investigation into the administratorship of Local Union 14055. After due notice to the officers and members of Local Union 14055, the Commission conducted a hearing in Bay City, Michigan on June 25, 1975 and again on July 16, 1975. I was present at both hearings. Whatever discussion there was of pending litigation at either of those hearings was concerned exclusively with the question of whether or not the Union should seek review of the NLRB's decision dismissing the refusal to bargain complaint against Dow. Some of the Local Union officers and members were strongly in favor of such an appeal.

16. On September 18, 1975, I received a report of the International Commission dated September 10, 1975. A copy of the report is attached as Exhibit D. Accompanying the report was a notice advising the recipients that the case would be heard by the International Executive Board at its meeting on October 20, 1975. A true copy of notice is attached as Exhibit E.

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17. On October 28, 1975, I received a letter dated October 23, 1975 from Walter J. Burke, International Secretary-Treasurer advising the recipients that the report and recommendations of the Commission had been adopted by the International Executive Board. A true copy of this letter is attached hereto as Exhibit F.

18. From August of 1975 until the Local's charter was revoked in May of 1976, there were no membership meetings of Local 14055, no collective bargaining or organizing activities and, indeed, no activity of any kind except the steps I was taking to wind up the affairs of the Local and conserve the Local's assets. During some of this period, the Local did continue to serve as a Blue Cross-Blue Shield "group" consisting of former Dow employees whose insurance coverage had been terminated by the Company. These former employees paid the premium to Local 14055, and the Local in turn remitted them to Blue Cross-Blue Shield. This practice ceased in February or March of 1976 when Blue Cross-Blue Shield informed me that it was cancelling the group policy on the ground that the group was too small. By then, it had dwindled down to three.

19. In April of 1976, local union elections were conducted throughout the United Steelworkers of America, AFL-CIO. Because its future was doubtful to say the least, and there was no conceivable reason for lifting the administratorship, I decided to hold no election of officers in Local 14055.

20. In early May of 1976, I had another telephone conversation with Director Younglove concerning the fate of Local 14055. I told him there was no reason for the Local to continue in existence. In support of my conclusion, I listed the following facts:

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(a) The Local had long since lost the right to bargain for Dow employees as a consequence of the NLRB's decision and we had concluded, after consulting counsel, that review of that decision would not be sought in the courts.

(b) There was no chance of regaining bargaining rights for the Dow refinery because the Local had virtually no support among the employees.

(c) All bills had been paid and the other administrative steps preliminary to dissolution attended to.

(d) The Blue Cross-Blue Shield group policy had been cancelled.

21. By letter dated May 7, 1976, a copy of which was sent to me and is attached as Exhibit G to this Affidavit, Director Younglove wrote Walter J. Burke, Secretary-Treasurer of the International, recommending that the charter for Local 14055 be revoked and its existence formally terminated.

22. Between May 11-May 13, the International Executive Board voted to approve Director Younglove's recommendation. On May 17, 1976, I received a letter dated May 13, 1976 from International President I. W. Abel advising me that the International Executive Board had voted to terminate the tenure of the administratorship and cancel Local Union 14055. I was instructed to complete the necessary government reports. A true copy of the May 13 letter is attached hereto as Exhibit H.

23. Immediately upon receiving President Abel's letter, I completed the required government reports (LM-15 and LM-16) and returned them to the International, as instructed, that same day. Thereafter, a

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final audit of the books of Local 14055 was conducted by an International auditor and the remaining assets of the Local, consisting entirely of unused strike funds, were returned to the International Strike and Defense Fund.

24. Local Union 14055 did not own any real property and whatever small items of office equipment it owned were of no value and were scrapped. No labor organization succeeded to the bargaining rights which had been held by Local 14055 inasmuch as those rights had been extinguished as a result of the NLRB's decision. Local 14055 no longer exists.

I have read the foregoing Affidavit consisting of twenty-four (24) paragraphs and swear that the contents thereof are true and correct to the best of my knowledge and memory.

GEORGE B. WATTS

Subscribed and sworn to before me this 27th day of July, 1976.

JOAN M. RICH

Notary Public

My Commission Expires July 20, 1979
Pittsburgh, Allegheny County, Pa.

*Appendix.***Exhibit A**

United Steelworkers of America
AFL-CIO • CLC
Five Gateway Center, Pittsburgh, Pa. 15222

Phone: (412) 562-2400

June 3, 1975

USA, June 6, 1975. Rec'd-Bay City

Charles Younglove, Director
USWA District 29
7000 Roosevelt Street
Allen Park, Mich. 48101

Dear Sir and Brother:

The following received from Director Younglove:

"Request an Administrator be placed over the Dow Chemical Company, (Bay Petro Plant) Bay City, Michigan, Local Union 14055. Recommend George B. Watts be appointed Administrator over Local Union 14055, to protect the interests of the Local Union Members and the International Union, including pending law suits."

The International Officers recommend approval of this request.

Appendix.

Please indicate your vote of approval or disapproval and return the original copy with your signature for our records in the enclosed envelope. Please retain copy for your file.

Sincerely your,
I. W. ABEL
President

☒ Approved CHARLES G. YOUNGLOVE
☐ Disapproved

cc: Geo. Watts BC
LU 14055 Adm file
Aydelotte.
Norma

Received June 5, 1975.
District 29, Allen Park, MI

*Appendix.***Exhibit B**

United Steelworkers of America
AFL-CIO • CLC
Five Gateway Center, Pittsburgh, Pa. 15222

June 9, 1975

USA, June 11, 1975. Rec'd-Bay City

Mr. George B. Watts, Staff Representative
USWA District 29
1104 S. Madison Avenue
Bay City, Michigan 48706

Dear Sir and Brother:

This is to officially notify you that all the officers of Local Union 14055, United Steelworkers of America, have been relieved of their duties and you have been appointed Administrator over the affairs of this Local Union.

Please call at the Peoples National Bank and Trust Company, Bay City, Michigan 48706, where this Local Union has an account and sign the necessary signature cards.

We are enclosing Government Report Form LM-15 to be completed by you and returned to this office. Completed Form must include Statement of Assets and Liabilities as of date of Administrator's appointment; this information should be made available to you by the International Auditor who has been advised to make an Initial Audit of the Local Union's records.

Sincerely yours,
I. W. ABEL
President

cc: Charles Younglove, Director

*Appendix.***Exhibit C**

United Steelworkers of America
AFL-CIO • CLC
Five Gateway Center, Pittsburgh, Pa. 15222

June 10, 1975

USA, June 12, 1975. Rec'd-Bay City

Mr. Raymond I. Arnot
USWA Local Union 14055
3132 Old Kawkawlin Road
Bay City, Michigan 48706

Dear Sir and Brother:

To assure the performance of collective bargaining agreements or other duties of a bargaining representative, Local Union 14055 is being placed under an Administrator and all the officers are hereby relieved of their duties.

This is to officially notify you that as of today, you are relieved as President of Local Union 14055.

Mr. George B. Watts has been appointed Administrator and you are hereby instructed to turn over to him all books, records, property and effects of Local Union 14055.

The imposition of an Administratorship is standard procedure in this type of case. It should not be viewed as in any way reflecting upon your performance as an officer of the Local Union.

Sincerely yours,
I. W. ABEL
President

cc: Charles Younglove, Director
George B. Watts, Administrator

*Appendix.***Exhibit D**

United Steelworkers of America
District 29
Bay City Sub-District Office
1104-1106 South Madison Avenue
Bay City, Michigan 48706
Telephone (517) 893-4591

September 10, 1975

U.S.W.A., Sept. 12, 1975. Pittsburgh, Pa.

Mr. Walter J. Burke, Secretary-Treasurer
United Steelworkers of America, AFL-CIO-CLC
Five Gateway Center
Pittsburgh, Pa. 15222
Re: Investigation - Administratorship
Local Union 14055, District 29,
United Steelworkers of America

Dear Sir and Brother:

This is our report on the investigation of Local Union 14055, USWA, AFL-CIO-CLC, under administration. Letters were sent out to all officers as directed. Two (2) meetings were held—one with the officers on June 25, 1975 and the following officers were in attendance: John Hayes, Fin. Sec.; Ray Arnot, Pres.; Jean Luczak, Trustee; Clarence S. Walczak, Vice Pres.; John T. Bukowski, Treas.; Terry McPeak, Trustee; George B. Watts, Administrator and Staff Representative. The other meeting was with the officers and membership on Wednesday, July 16, 1975. Twenty-seven (27) persons were in attendance.

We found that this plant has been on strike since February 7, 1972, with approximately 160 members at

Appendix.

the start. Many of those 160 persons have since returned to the employment of this strike bound plant, crossing the picket line.

The Company's withdrawal of its tentative agreement on the Union Shop Clause with the Steelworkers left the plant without Steelworker's representation.

There is litigation pending. Because of the pendency of that litigation and to safeguard this Union fund (\$42,000), we recommend that this local remain under administration.

Respectfully submitted,

AARON H. JACKSON

Sub-District Director and
Chairman of the Commission

W. REX HARRIS

Staff Representative and
Secretary of the Commission

AHJ:WRH:jlb

cc: Charles G. Younglove, District Director
George B. Watts, Staff Representative

*Appendix.***Exhibit E**

United Steelworkers of America
AFL-CIO • CLC
Five Gateway Center, Pittsburgh, Pa. 15222

Phone: (412) 562-2400

September 16, 1975

USA, Sept. 18, 1975. Rec'd-Bay City

Mr. George B. Watts, Staff Representative
United Steelworkers of America
1104 South Madison Avenue
Bay City, Michigan

Re: Case #A-3260—Investigation-Administratorship
Local Union 14055, District 29,
United Steelworkers of America

Dear Sir and Brother:

We are enclosing, herewith, copy of report of the International Commission in the above-captioned case.

Please be advised that the above-captioned case will be one of those heard by the International Executive Board at its meeting which will commence at 10:00 a.m. on October 20, 1975, in the International Executive Board Room, Room 1209, Five Gateway Center, Pittsburgh, Pennsylvania. The Board will endeavor to conclude its hearings on October 20 but the hearings will be continued on October 21, if necessary.

Appendix.

You may present your appeal in person or submit a statement in support thereof by mail.

The International Union cannot be responsible for any lost time or expenses incurred as result of your appeal.

Sincerely and fraternally yours,

WALTER J. BURKE

International Secretary-Treasurer

cc: Director Younglove
Raymond I. Arnot
Clarence S. Walczak
Gerald Wesley
John Hayes, Jr.
John Bukowski

*Appendix.***Exhibit F**

United Steelworkers of America
AFL-CIO • CLC
Five Gateway Center, Pittsburgh, Pa. 15222

Phone: (412) 562-2400

October 23, 1975

USA, Oct. 28, 1975. Rec'd-Bay City

Mr. Raymond I. Arnot, LU-14055, USWA
Mr. Clarence S. Walczak, LU-14055, USWA
Mr. Gerald Wesley, LU-14055, USWA
Mr. John Hayes, Jr., LU-14055, USWA
Mr. John Bukowski, LU-14055, USWA

Re: Case #A-3260—Investigation-Administration,
LU-14055, District #29,
United Steelworkers of America

Dear Sirs and Brothers:

This is to advise you that the International Executive Board of the United Steelworkers of America, at its meeting on October 20 and 21, 1975, in Pittsburgh, Pennsylvania, adopted the report and recommendations of the International Commission in the above-captioned case.

Sincerely and fraternally yours,

WALTER J. BURKE

International Secretary-Treasurer

cc: Director Younglove
George B. Watts, Administrator

*Appendix.***Exhibit G**

United Steelworkers of America
 District 29
 Allen Park Office Square
 7000 Roosevelt Street
 Allen Park, Michigan 48101

Telephone 388-1300
 Area Code 313

May 7, 1976

USA, May 10, 1976. Rec'd-Bay City

Mr. Walter J. Burke, Secretary-Treasurer
 United Steelworkers of America
 Five Gateway Center
 Pittsburgh, Pennsylvania 15222

Dear Sir and Brother:

As you know in June, 1975, Local Union 14055 was placed under Administratorship upon my request and the recommendation of President I. W. Abel, and after a poll of the International Executive Board. The matter was later investigated by a Commission and found that the plant represented by this Local, Dow Petro Chemical Division had been on strike since February of 1972 and that many employees had returned to work crossing the picket line. Furthermore, the company's conduct in reneging on tentative agreements and in withdrawing recognition of the Steelworkers had left the plant without steelworker representation.

To safeguard the local's assets and because of litigation then pending (the Union had challenged the Company's withdrawal of recognition before the National

Appendix.

Labor Relations Board), it was recommended that the Local remain under Administratorship. The International Executive Board adopted these recommendations in October of 1975.

I am now convinced that the charter for this Local should be revoked and its existence formally terminated. The reasons are as follows:

(1) There is no longer any possibility that we will retain or reacquire our bargaining rights at the Dow Petro Chemical Division which was the only plant in this locals jurisdiction.

(2) Since my request last June, it has been concluded that the litigation consideration—possible pursuit of the refusal to bargain case in the courts—is no longer a factor.

(3) All legitimate claims on the local union's treasury have been satisfied.

Please take all the steps necessary to implement this recommendation.

Fraternally yours,
 CHARLES G. YOUNGLOVE
 Director, District 29

CGY/sv
 cc: George Watts

Appendix.

Exhibit H

United Steelworkers of America
AFL-CIO • CLC
Five Gateway Center, Pittsburgh, Pa. 15222

May 13, 1976

USA, May 17, 1976. Rec'd-Bay City

Mr. George B. Watts, Staff Representative
United Steelworkers of America
1104 South Madison Avenue
Bay City, Michigan 48706

Dear Sir and Brother:

This is to advise you that the International Executive Board of the United Steelworkers of America, voted to terminate the tenure of the International Administrator and cancel Local Union 14055.

We are enclosing, herewith, Government Reports Form LM-15 (semi-annual) and LM-16 (terminal) to be completed by you. Terminal Trusteeship Financial Report Form LM-2 must be filed together with this report. All reports must be returned to this office, attention Wayne Antrim. This is in accordance with the Labor-Management Reporting and Disclosure Act of 1959.

Sincerely yours,
I. W. ABEL
President

cc: Director Younglove
